



Queen's Bench, Montreal.

MR. JUSTICE WÜRTELE'S

Charge to the Grand Jury,

*Thursday, 1st June 1893.*

GENTLEMEN OF THE GRAND JURY:

You have been called here to assist in the administration of criminal justice in this district, and your principal duty will be to enquire into the accusations which will be laid before you by the Crown prosecutors, and see if the evidence on which they are founded is sufficient to oblige the accused persons to answer the charges and stand a trial.

The accusations are reduced to writing in technical form, and the written accusations thus drafted are called bills. On the back, the names of the witnesses are written; and these witnesses, or as many of them as you may require, will be brought before you and examined on oath. The examination will be conducted either by the Crown officers or by your foreman, and the latter will put his initials at the end of the name of each witness examined. Any one of you, however, has the right to put to the witnesses any additional questions that he may think necessary.

In order to proceed in any case, it is necessary that twelve jurors at least be present, and to find an accusation founded, or to declare it unfounded, twelve at least must concur. When you find an accusation to be founded your foreman will write the words "A True Bill" on the back of the bill and sign his name below them, adding under his signature the word "Foreman," and when you

reject an accusation he will write the words "No Bill" on the back of the bill, signing his name and adding his quality as in the first case.

The examination which you will make of each case is not a trial of the accused person. Its object is to see whether there is sufficient ground to put the accused person on his trial before a petty jury. If it appears from the evidence that it is probable that the crime or offence laid in the bill was committed by the person accused, you should find and return a true bill; and it will then be for the Crown to establish his guilt or for the accused person to excuse himself, in court. If, on the other hand, you should think that the evidence does not implicate the accused person, you should say that there is no bill, and on your return to that effect the accused person will be at once discharged from the charge contained in that bill. If you should in any case be unable to decide from the evidence laid before you that the accused person should be put on trial, and still be not satisfied as to his innocence, you should report your view, which will be done by your foreman writing the word "Ignoramus" on the back of the bill, and adding below it his signature and quality.

You will bring all bills upon which you may act into court, and they will be handed to the Clerk of the Crown by your foreman, and your finding will be publicly announced.

I am glad to be able to tell you that the number of cases to be submitted to you is not large, and that none of them are for capital offences. This speaks well for the district and especially for the metropolis of the Dominion, and is certainly a subject for congratulation. There is nothing special in any of the cases, and I have therefore no particular instructions to give to you. The Crown prosecutors and the officers of the court will give to you such aid as you may require, and I will be ready to give to you at all convenient times advice and instructions should circumstances require it.

I need hardly tell you that you must keep the secret of your proceedings and deliberations, as the oath of office which you have just taken has laid that obligation upon you. You cannot but feel that the certitude that the knowledge will be kept to yourselves, of what takes place in the Grand Jury room when you discuss and decide, will conduce to independence of action.

When you deliberate and vote on any bill, you should be alone, and the Crown prosecutors and officers must, therefore, retire before the deliberation commences.

All provincial prisons and asylums within the district may be visited by you, to ascertain if they are properly managed and if the officers entrusted with their care fulfil their duties, and to enable you to report to the court by your presentment any neglect in that respect, so that it may be brought under the attention of the proper authorities. But you may, perhaps, dispense during the present term with the usual visit, as these institutions were recently seen and favorably reported upon.

You may also call the attention of the court to any nuisances which you may know to exist, or to any neglect or dereliction of duty on the part of public officers or municipal corporations which may be brought under your notice, so that such action may be taken as may be necessary.

And in this connection, I may request you to visit the building which is used in this city as a morgue and to report on its condition. From the information given to me, I believe that it is a disgrace to our city to allow human bodies to be placed in such a dilapidated building, or to bring respectable citizens serving on the coroner's juries into it. There is, it appears, a conflict between the Corporation of the city and the Provincial Government as to which is obliged to provide the building, but a representation of the condition of the morgue now used and a remonstrance may bring about a settlement and result in a proper building being provided.

Another subject to which, in the public interest, you might call the attention of the City Council is the over-loading of the cars on the Electric Street Railway. It is true that this overloading is due in part to the fault of the passengers themselves, who, of their own accord, get on cars which have already as many passengers as they can comfortably and safely carry ; but the company and its officers and servants remain responsible, notwithstanding this, for the safety of the passengers that they carry. Should an accident occur in consequence of the over-loading of a car, the company's officers and servants might have to answer a charge of manslaughter. The punishment, however, of those whose misconduct caused the accident would be no consolation to the relations and friends of those to whom the accident might bring death. All we can do is to sound a warning note by which the attention of those having a supervising power may be directed to this dangerous practice.

In another month the Criminal Code will come into force, and this will, without doubt, render more easy the task of administering criminal justice. Instead of having to search through many volumes of the statutes to find the law applicable to a case, reference will hereafter be made to one small volume, containing the criminal code, in which the whole of our existing criminal statutory enactments have been compressed, with such amendments as experience showed the expediency of. Although the criminal code will not do away with the necessity for the use and study of text books and reports, it will greatly help and lessen the labor of the student, the Crown prosecutor, the pleader and the judge, in the same way as the civil code and the code of civil procedure have done in the study and practice of the civil law.

You will now withdraw to the Grand Jury room and proceed with your labors.

